

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Edward Seals,

Petitioner,

v.

United States of America,

Respondent.

Case No. 08-CV-0080-MJR

ORDER

REAGAN, District Judge:

Petitioner Edward Seals has moved for the Court to allow him to proceed to his appeal *in forma pauperis*. (Doc. 21.) He appeals from the Court's judgment entered April 24, 2009 (Doc. 8) pursuant to an Order of that same day (Doc. 7) denying his motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence (Doc. 1). He filed the notice of appeal on August 14 (Doc. 13), more than two months late. *See* 28 U.S.C. § 2107(a) (2006). This lateness could raise questions as to whether he is pursuing an appeal in good faith, which is relevant to whether the Court should grant leave to appeal *in forma pauperis*. *See* 28 U.S.C. § 1915(a)(3).

While the Court conducted the inquiry into Seals' good-faith appeal, it came to the Court's attention that the Clerk of Court in fact never served Seals with the judgment in this case. **See R. Governing Section 2255 Cases 12 (applying rules of civil procedure and rules of criminal procedure to § 2255 cases as long as they are consistent with § 2255 rules); Fed. R. Civ. P. 77(d) (requiring the Clerk to serve parties with copies of judgments and orders once entered).** Seals asserted as much in his motion to reopen the time for filing a notice of appeal (Doc.

18), which the Court previously denied due to lack of jurisdiction as it was filed after the notice of appeal in this case (Doc. 20).

Considering that Seals' assertions in his motion to reopen the time for appeal were accurate, if the Seventh Circuit is inclined to return jurisdiction to this Court, the Court is inclined to vacate its previous Order of August 20 (Doc. 20) and reopen the time for filing a notice of appeal in accordance with 28 U.S.C. § 2107(c) and Rule 4(a)(6) of the Federal Rules of Appellate Procedure. Once this occurs, the Court will additionally rule on the pending motion to appeal *in forma pauperis* and any motion for a certificate of appealability. In the meantime, the Clerk of Court is DIRECTED to serve on petitioner Seals copies of the Memorandum and Order denying his motion (Doc. 7), the judgment entered pursuant to that Order (Doc. 8), and this Order, along with a current copy of the docket sheet in this case.

IT IS SO ORDERED.

DATED this 9th day of October, 2009.

s/ Michael J. Reagan
Michael J. Reagan
United States District Judge